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September 27, 2023

Via Electronic Case Filing

Honorable José R. Almonte, U.S.M.J.
U.S. District Court, NJ District
Frank R. Lautenberg U.S. Post Office &
Courthouse Building
2 Federal Square
Newark, NJ 07101

Re: Chang v. Able C&C Co. Ltd., Case No. 2:23-cv-02590-KSH-JRA

Dear Judge Almonte:

We have been retained to represent Able C&C Co. Ltd. (“Able Korea”), the defendant in the above-referenced matter. This morning we became aware that Plaintiff has moved for entry of default against Able Korea. (Dkt. No. 12). For the reasons explained below, Plaintiff’s request for entry of default is plainly improper and should be denied.

We understand that by Order dated September 13, 2023, the Court granted Plaintiff’s motion to serve Able Korea by substituted service on Able C&C US Inc. (“Able US”). (Dkt. No. 10). The Order provides, in relevant part, “that Plaintiff shall serve the Summons and Complaint upon Defendant in a manner consistent with this Order by October 31, 2023.” (*Id.*). One day after the Order was entered, Plaintiff filed an affidavit of service which reflects that Plaintiff served the Complaint and Summons on Able US on August 16, 2023—approximately one month **before** the Court issued its Order. (Dkt. No. 11). Thus, Plaintiff did not effectuate service “in a manner consistent with” the Court’s Order and indeed, the Order was not even *entered* at the time of service. Consequently, at the time the Complaint and Summons were served on Able US, there had been no determination that Able US could be served on behalf of Able Korea. The service, therefore, was invalid.

Upon becoming aware of the Court’s Order and Plaintiff’s improper attempt to retroactively apply it, I contacted Plaintiff’s counsel, Peter Lee, Esq. I advised that Able Korea disputes the effectiveness of the service but, nonetheless, I would accept service of the Complaint and Summons on its behalf. Mr. Lee, however, rejected that proposal. One day later—this morning—Plaintiff moved for entry of default against Able Korea. (Dkt. No. 12).

Because Plaintiff has failed to effectuate service “in a manner consistent with” the Court’s Order, his request for entry of default should be denied.

 COLE SCHOTZ P.C.

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Respectfully submitted,

COLE SCHOTZ P.C.

/s/ Eric S. Latzer

Eric S. Latzer

ESL:

cc: Peter Lee, Esq. (via electronic filing)